

# **State of Alaska FY2008 Governor's Operating Budget**

## **Department of Law Opinions, Appeals and Ethics Component Budget Summary**

## Component: Opinions, Appeals and Ethics

### Contribution to Department's Mission

The Opinions, Appeals and Ethics section provides specialized legal services and representation to state government on all legal opinions, civil appeals in state and federal court, all executive branch ethics, public finance matters, and Indian law.

### Core Services

The Opinions, Appeals and Ethics section provides legal services and expertise to departments and agencies in a variety of areas requiring special expertise. Those areas include attorney general opinions on all subjects and appeals of civil cases in both state and federal court. The section serves all state departments, boards, and commissions on all Executive Branch Ethics Act matters. The section also provides advice and representation on specialized areas of the law including public finance and budget, Indian law, and the public records act.

The section was established in June 2003. Its primary functions are to improve the state's civil appellate work, improve the quality of attorney general opinions, provide more timely and comprehensive services on executive branch ethics for all of state government, and to provide specialized legal expertise in certain areas including public finance and Indian law. The attorneys in the section evaluate and make recommendations to the attorney general and deputy attorney general on all civil appeals and petitions for review. The section also provides assistance with appellate briefing and case preparation, and handles appeals where the case presents significant constitutional issues or where matters of statewide implication are involved. Beginning October 1, 2004, the section started handling all of the state's new appellate cases concerning child abuse and neglect.

The section is responsible for attorney general opinions, and in carrying out that function it both prepares opinions on significant legal issues, and reviews and approves opinions generated by others in the department. As with the appellate function, the section's opinion function has improved the substance, quality, and consistency of the written legal advice issued by the department.

The section is assigned the Executive Branch Ethics function for state government. This focus has improved the timeliness and quality of ethics advice being rendered to all state agencies. An Assistant Attorney General in the section serves as the designated ethics supervisor for the Department of Law, and handles professional ethics issues involving both department staff and outside counsel. The section also provides legal advice and assistance on the state's public funds, public finance issues, public records issues, and legal advice to the Governor's Office. It also is responsible for coordinating and assisting on Alaska Native and federal Indian law issues, both civil and criminal. The section is also responsible for reviewing briefs and making recommendations to the attorney general on participation in United States Supreme Court cases as an *amicus* or "friend of the court."

### FY2008 Resources Allocated to Achieve Results

**FY2008 Component Budget: \$1,629,100**

**Personnel:**

Full time	8
Part time	0
<b>Total</b>	<b>8</b>

### Key Component Challenges

The Opinions, Appeals and Ethics section currently oversees the work of the civil division on over 100 active appeals pending in state and federal court. At any given time, the civil division has between 90 and 110 civil appeals pending, about 25 of which are "Child-in-Need-of-Aid" (CINA) cases, involving child abuse and neglect. The section is currently handling all of the CINA appeals statewide. We also handle appeals in other cases that concern constitutional and legal issues of particular import. A key challenge for the section is to be involved in the briefing and preparation of all civil appeals.

The section also prepares or reviews Attorney General Opinions. A key challenge in this area has been to develop protocols to ensure the section is involved early in the opinion process so that the department can render timely and high quality advice to state agencies, which improves agency decision making. Section members have met and developed a new department policy on opinions that will help the department issue higher quality opinions in a more timely manner. The Attorney General recently adopted the new policy, so it is currently in effect.

Ethics is another key challenge for the section. The section handles scores of ethics issues, investigations, opinions, and oral and written advice. These issues come up literally every day from all over state government. It is important that ethics advice be rendered promptly and in a consistent manner. Opinions and advice often require significant factual and legal research. The section also provides ethics training for state agencies. Better and more frequent training should reduce the number of ethics problems that arise and improve agency action and decision making on these issues.

Indian law issues continue to impact virtually every area of state government's responsibilities. The section is working to provide advice on a wide variety of issues including civil and criminal jurisdiction and authority, Indian gaming, waivers of sovereign immunity, Indian country, tribal status, the Indian Child Welfare Act, Public Law 280, and many more. We anticipate this area of law and legal services to be a continuing challenge for the section.

## **Significant Changes in Results to be Delivered in FY2008**

No changes are anticipated.

## **Major Component Accomplishments in 2006**

The section evaluated and made recommendations to the attorney general on whether to appeal in 13 cases. The evaluations include careful review of the cases, consultation with the attorney and agency involved, preparation of memoranda analyzing the case and making a recommendation, and discussion with the attorney general and the deputy attorney general.

The section worked on appellate briefs in many cases, set up moot courts for 30 cases and participated in oral argument preparation in many of those, and provided consultation on appellate issues for the civil division.

The section prepared and issued several attorney general opinions and assisted with the preparation of many other opinions.

The section handled all of the court appeals in CINA cases.

The section provided legal advice on over 100 ethics issues, rendered several ethics opinions and memoranda of advise on topics such as outside employment, post-state employment, gifts, contracts, etc., investigated and resolved several ethics complaints, and is continuing work on several pending investigations and issues.

The section advised the Office of Management and Budget on issues concerning public finance and budget and prepared draft legislation on budget and finance issues.

The section worked on a wide variety of Indian law issues including the Indian Child Welfare Act, Indian gaming, sovereign immunity, and tribal jurisdiction in civil and criminal arenas.

## **Statutory and Regulatory Authority**

No statutes and regulations.

Contact Information
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### Opinions, Appeals and Ethics Component Financial Summary

*All dollars shown in thousands*

	FY2006 Actuals	FY2007 Management Plan	FY2008 Governor
<b>Non-Formula Program:</b>			
<b>Component Expenditures:</b>			
71000 Personal Services	146.2	1,122.4	1,290.6
72000 Travel	3.4	33.6	33.6
73000 Services	32.3	253.4	253.4
74000 Commodities	3.5	32.0	32.0
75000 Capital Outlay	1.2	19.5	19.5
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
<b>Expenditure Totals</b>	<b>186.6</b>	<b>1,460.9</b>	<b>1,629.1</b>
<b>Funding Sources:</b>			
1004 General Fund Receipts	64.4	1,042.6	1,210.5
1007 Inter-Agency Receipts	122.2	418.3	418.6
<b>Funding Totals</b>	<b>186.6</b>	<b>1,460.9</b>	<b>1,629.1</b>

### Estimated Revenue Collections

Description	Master Revenue Account	FY2006 Actuals	FY2007 Management Plan	FY2008 Governor
<b>Unrestricted Revenues</b>				
None.		0.0	0.0	0.0
<b>Unrestricted Total</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>Restricted Revenues</b>				
Interagency Receipts	51015	122.2	418.3	418.6
<b>Restricted Total</b>		<b>122.2</b>	<b>418.3</b>	<b>418.6</b>
<b>Total Estimated Revenues</b>		<b>122.2</b>	<b>418.3</b>	<b>418.6</b>

**Summary of Component Budget Changes  
From FY2007 Management Plan to FY2008 Governor**

*All dollars shown in thousands*

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
<b>FY2007 Management Plan</b>	<b>1,042.6</b>	<b>0.0</b>	<b>418.3</b>	<b>1,460.9</b>
<b>Adjustments which will continue current level of service:</b>				
-FY 08 Health Insurance Increases for Exempt Employees	1.2	0.0	0.3	1.5
-Fund Source Adjustment for Retirement Systems Increases	38.1	0.0	-38.1	0.0
<b>Proposed budget increases:</b>				
-FY 08 Retirement Systems Rate Increases	128.6	0.0	38.1	166.7
<b>FY2008 Governor</b>	<b>1,210.5</b>	<b>0.0</b>	<b>418.6</b>	<b>1,629.1</b>

**Opinions, Appeals and Ethics  
Personal Services Information**

<b>Authorized Positions</b>			<b>Personal Services Costs</b>	
	<b><u>FY2007</u> Management Plan</b>	<b><u>FY2008</u> Governor</b>		
Full-time	8	8	Annual Salaries	787,259
Part-time	0	0	Premium Pay	0
Nonpermanent	0	0	Annual Benefits	514,151
			<i>Less 0.83% Vacancy Factor</i>	(10,810)
			Lump Sum Premium Pay	0
<b>Totals</b>	<b>8</b>	<b>8</b>	<b>Total Personal Services</b>	<b>1,290,600</b>

**Position Classification Summary**

<b>Job Class Title</b>	<b>Anchorage</b>	<b>Fairbanks</b>	<b>Juneau</b>	<b>Others</b>	<b>Total</b>
Attorney IV	3	0	0	0	3
Attorney V	2	2	0	0	4
Attorney VI	1	0	0	0	1
<b>Totals</b>	<b>6</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>8</b>